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April 26, 2018

**Via ECF**

The Honorable Steven L. Tiscione  
United States Magistrate Judge  
U.S. District Court for the Eastern District of New York  
225 Cadman Plaza  
Brooklyn, NY 11201

Re: *Leguette v. Schwan's Company*, Case 1:17-cv-07599-JBW-ST

Dear Judge Tiscione:

I represent the remaining defendant, Schwan's Consumer Brands, Inc. ("Schwan's"), in this matter. This is in reference to the Court's Scheduling Order of April 20, 2018 (Dkt. 11), setting an initial conference before the Court for May 21, 2018, at 10:00 a.m., and ordering the parties to confer on and prepare a proposed discovery plan.


May 21, the scheduled date of the initial conference, is also the date by which Schwan's must respond to the Complaint under Fed. R. Civ. P. 4(d) and 12(a)(1)(ii). Schwan's intends to move on that date to dismiss the Complaint under Rules 12(b)(1) and 12(b)(6) on several substantive and procedural grounds.

Schwan's respectfully submits that the discovery plan would be more efficiently formulated after the decision on Schwan's forthcoming motion to dismiss, when it can be tailored to the counts and allegations, if any, that remain in the case. Schwan's accordingly requests that the parties not be required to confer to discuss the matters specified in Fed. R. Civ. P. 26(f) or to prepare a discovery plan prior to the May 21 conference.

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Schwan's has conferred with counsel for Plaintiff, which does not object to Schwan's request to postpone the Rule 26(f) discussion and the preparation of the discovery plan. We appreciate the Court's consideration of this request.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "August T. Horvath", is written over a horizontal line.

August T. Horvath (AH 8776)  
FOLEY HOAG LLP

*Attorneys for Defendant Schwan's Consumer  
Brands, Inc.*

cc: Counsel for Plaintiff (via ECF)